

Patent
42522-0817

IN THE DRAWINGS:

See the replacement drawing for Figure 1.

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Applicant appreciates the suggestions of the Examiner with regards to amending Figure 1, wherein the lead line has now been removed and further, the suggestions with regards to the claims. Accordingly, distal end has been amended to read distal portion.

Additionally, a clarification of the fastener member has been provided in the claim language. As can be determined, a pair of fastener members 54 and 56 can permanently fix a relative position of the distal end portion 44 when the fasteners are secured to the bores 55 and 57. As can be further appreciated, the linearly extending slots 50 and 52 permit a sliding adjustment when the fasteners are only loosely mounted in the bores. When the fasteners 54 and/or 56 are tightened, they define a cantilevered fixed position of the distal end 44 of the straight portion 40.

The Office Action also made a suggestion with regards to complimentary curve location, which is referring to the curved configuration of the anchor location 37 which is formed from the plastic hip engaging unit 200.

Attached hereto is a Terminal Disclaimer to remove the double patenting rejection which is believed to be an obvious double patent rejection under U.S. Patent No. 6,589,195, since the claims are not identical.

Applicant appreciated the courtesy of a telephone conference with Examiner Wieker and her suggestions on the dependent claim language of proposed Claims 67 and 69.

A short discussion of the *Rogers et al* (U.S. Patent No. 5,107,824) consistent with the comments set forth herein occurred, and the Examiner indicated that *Rogers et al* would be withdrawn as a 35 U.S.C. §102 reference.

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Claim 37 has been amended to clarify that the support plate 40 is to be fixed, after adjustment to the user, and that the distal portion 44 enables linking with the appendant orthotic 120 through connection to a hinge unit 70 and a support bar 98 that is connected directly to the appendant orthotic as set forth in Claim 67.

The present invention permits an elongated support plate to be cantilevered from a hip engaging unit so that the distal end portion of the support plate can be moved towards and away from the side of the patient. By providing complimentary curved portions on one end of the support plate and on the anchor location on the hip engaging unit an orthotist can customize an offset location and fix it relative to the patient. The hip engaging unit in combination with the support plate and a hinge member attached for example by a support bar to an appendant orthotic to the appendage can control the movement of the appendage, such as a leg. As shown for example, in Figure 1 of our present invention as a preferred embodiment, the hinge member can be fastened to the straight portion of the support plate while the other end of the hinge member can be attached directly or through a support bar to the appendant orthotic, for example, applied around a thigh of a person, which thereby will limit the movement of the leg and prevent undue stress on a hip joint replacement while it heals.

As can be further appreciated and as seen in Figure 5, an anchor plate 46 can be used to sandwich a plastic shell of the hip engaging unit to not only provide a fastening location such as threadlike bores 56 and 57, but also to provide additional strength to ensure a relatively rigid positioning of the distal end of the support member. The plastic shell portion is sandwiched between the curved portion of the support plate and the curved portion of the anchor plate when they are fixed together.

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Our claims have been amended as mentioned above, and are believed to clearly define over both the *Rogers et al* (U.S. Patent No. 5,107,824) and the *Johnson et al* (U.S. Patent No. 6,203,511).

The *Rogers et al* patent is directed to a knee brace hinge that purportedly is designed to extend in a convex manner to accommodate the bulbous shape of the knee. Cam slots are designed to track a knee bending motion purportedly in a manner close to the anatomical way in which a knee bends. As can be appreciated, a bending knee is more complicated than a single axis movement. The slots purportedly allow for knee flexion and related rotation, roll back and glide of the knee. This is a dynamic anatomical hinge flexion.

The Office Action is apparently citing the two spherical shells of a hinge that has been designed to permit relative movement adjacent a knee. It does not teach or suggest an elongated support plate, nor is it concerned with any adjustment of a distal portion towards or away from the leg. As can be readily appreciated, our present invention has an elongated support plate with a curved securement portion at one end, and a distal portion at the other end with means for connection to a hinge unit. In our independent Claims 1 and 71, we are not claiming the hinge unit or any motion associated with the hinge unit. The support plate must be fixed and the distal portion is provided so that it can be customized to provide a fixed location off of the side of the user. Fastener members are provided for permanently fixing the support plate in this distal position. The whole purpose of the *Rogers et al* reference is to provide a hinge movement for a knee brace, not to offset a distal portion in a fixed manner that permits an easy adjustment by an orthotist.

Additionally, there is no teaching of a fastener member for fixing a curved support portion adjacent a hip engaging unit so that it is held fast during use.

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The *Johnson et al* reference likewise discloses a hinge arrangement in different configurations of Figures 9-11. Figure 9 is to act as a knee brace, while Figure 10 discloses an arrangement as a hip brace.

As can be seen, the hinge portion discloses conventional straight support plates and permits only a relative vertical movement to accommodate the individual height of a patient. There is no teaching, however, to permit a movement away from or towards the patient so that a distal portion can be adjusted and offset from the patient to prevent contact with the hip and possibly the location of an incision for implanting an artificial hip socket. The recitation of simply curved end cuts in a slot as a curved configuration does not provide either the structure or the capabilities of our present invention.

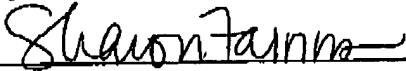
If the Examiner believes a further phone conference will assist in the prosecution of this case, the undersigned attorney is available.

I hereby certify that this correspondence is being transmitted via facsimile to the USPTO at 571-273-8300 on October 7, 2005.

Very truly yours,

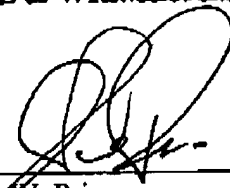
SNELL & WILMER L.L.P.

By: Sharon Farnus



Signature

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